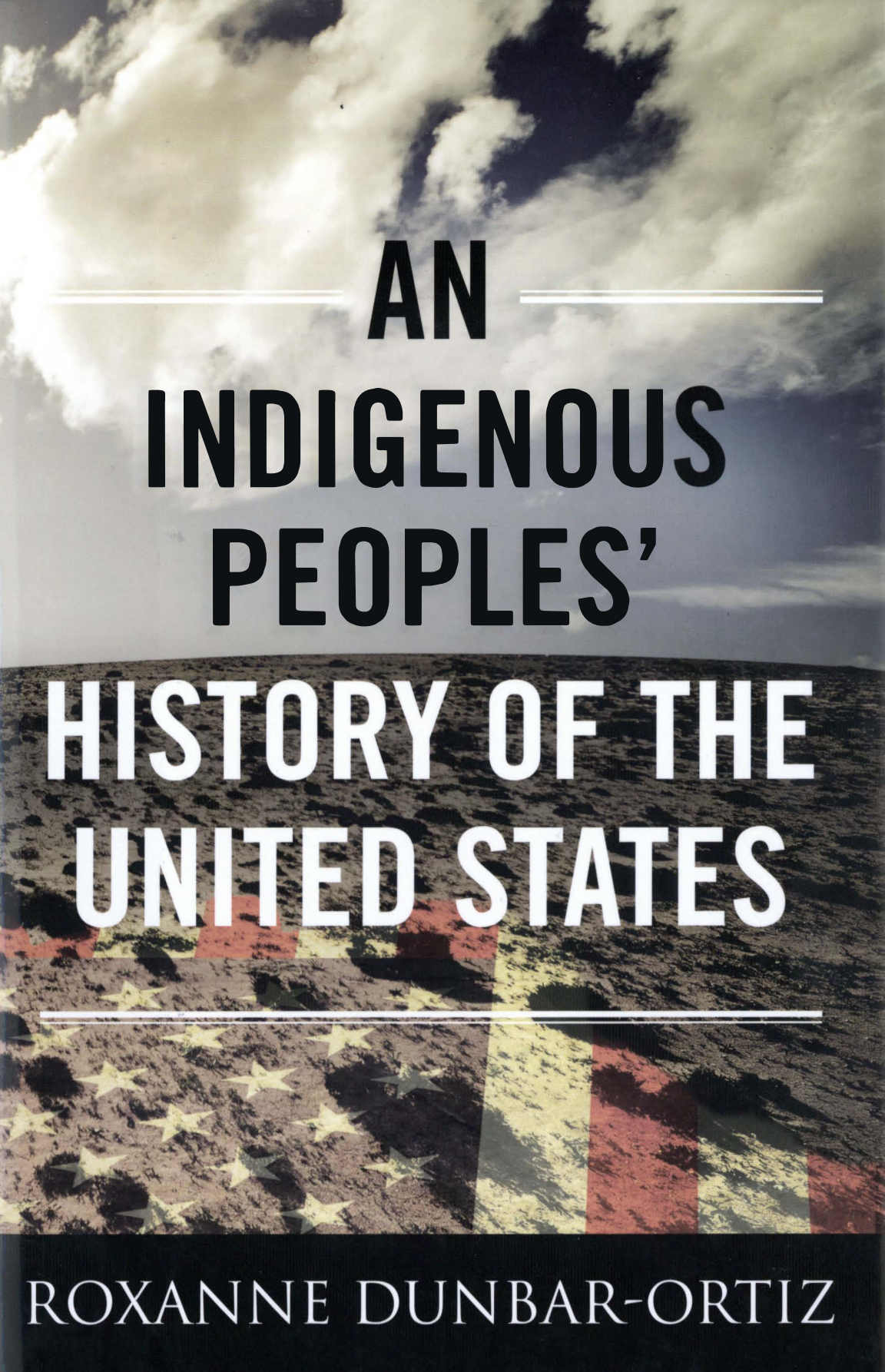
AN
INDIGENOUS
PEOPLES'
HISTORY OF THE
UNITED STATES
ROXANNE DUNBAR-ORTIZ

U.S. $27.95
CAN $32.95

"A must-read for anyone interested in the truth behind this nation's founding."

—**VERONICA E. VELARDE TILLER**, PhD,
Jicarilla Apache author, historian, and publisher
of *Tiller's Guide to Indian Country*

Today in the United States, there are more than five hundred federally recognized Indigenous nations comprising nearly three million people, descendants of the fifteen million Native people who once inhabited this land. The centuries-long genocidal program of the US settler-colonial regimen has largely been omitted from history. Now, for the first time, acclaimed historian and activist Roxanne Dunbar-Ortiz offers a history of the United States told from the perspective of Indigenous peoples and reveals how Native Americans, for centuries, actively resisted expansion of the US empire.

In *An Indigenous Peoples' History of the United States*, Dunbar-Ortiz adroitly challenges the founding myth of the United States and shows how policy against Indigenous peoples was colonialist and designed to seize the territories of the original inhabitants, displacing or eliminating them. And as Dunbar-Ortiz reveals, this policy was praised in popular culture, through writers like James Fenimore Cooper and Walt Whitman, and in the highest offices of government and the military. As the genocidal policy reached its zenith under President Andrew Jackson, its shocking ruthlessness was best articulated by US Army general Thomas S. Jesup, who, in 1836, wrote of the Seminoles: "The country can be rid of them only by exterminating them."

(continued on back flap)

(continued from front flap)

Spanning more than four hundred years, this classic bottom-up peoples' history radically reframes US history and explodes the silences that have haunted our national narrative.

Barrie Karp

Roxanne Dunbar-Ortiz grew up in rural Oklahoma, the daughter of a tenant farmer and part-Indian mother. She has been active in the international Indigenous movement for more than four decades and is known for her lifelong commitment to national and international social justice issues. After receiving her PhD in history at the University of California at Los Angeles, she taught in the newly established Native American Studies Program at California State University, Hayward, and helped found the departments of Ethnic Studies and Women's Studies. Her 1977 book *The Great Sioux Nation* was the fundamental document at the first international conference on Indigenous peoples of the Americas, held at the United Nations' headquarters in Geneva. Dunbar-Ortiz is the author or editor of seven other books, including *Roots of Resistance: A History of Land Tenure in New Mexico*. She lives in San Francisco.

Jacket design and photo illustration: Gabi Anderson
Jacket art: Images courtesy of Veer

Beacon Press
Boston
www.beacon.org

PRAISE FOR
AN INDIGENOUS PEOPLES' HISTORY OF THE UNITED STATES

"In this riveting book, Roxanne Dunbar-Ortiz decolonizes American history and illustrates definitively why the past is never very far from the present. Exploring the borderlands between action and narration—between what happened and what is said to have happened—Dunbar-Ortiz strips us of our forged innocence, shocks us into new awarenesses, and draws a straight line from the sins of our fathers—settler-colonialism, the doctrine of discovery, the myth of manifest destiny, white supremacy, theft, and systematic killing—to the contemporary condition of permanent war, invasion and occupation, mass incarceration, and the constant use and threat of state violence. Best of all, she points a way beyond amnesia, paralyzing guilt, or helplessness toward discovering our deepest humanity in a project of truth-telling and repair. *An Indigenous Peoples' History of the United States* will forever change the way we read history and understand our own responsibility to it."

—BILL AYERS

"Dunbar-Ortiz provides a historical analysis of the US colonial framework from the perspective of an Indigenous human rights advocate. Her assessment and conclusions are necessary tools for all Indigenous peoples seeking to address and remedy the legacy of US colonial domination that continues to subvert Indigenous human rights in today's globalized world."

—MILILANI B. TRASK, Native Hawai'ian international law expert on Indigenous peoples' rights and former Kia Aina (prime minister) of Ka La Hui Hawai'i

"Justice-seekers everywhere will celebrate Dunbar-Ortiz's unflinching commitment to truth—a truth that places settler-colonialism and genocide exactly where they belong: as foundational to the existence of the United States."

—WAZIYATAWIN, PhD, activist and author of *For Indigenous Minds Only: A Decolonization Handbook*

"Roxanne Dunbar-Ortiz's *An Indigenous Peoples' History of the United States* is a fiercely honest, unwavering, and unprecedented statement, one that has never been attempted by any other historian or intellectual. The presentation of facts and arguments is clear and direct, unadorned by needless and pointless rhetoric, and there is an organic feel of intellectual solidity that provides weight and inspires trust. It is truly an Indigenous peoples' voice that gives Dunbar-Ortiz's book direction, purpose, and trustworthy intention. Without doubt, this crucially important book is required reading for everyone in the Americas!"

—SIMON J. ORTIZ, Regents Professor of English and American Indian Studies, Arizona State University

"*An Indigenous Peoples' History of the United States* provides an essential historical reference for all Americans. Particularly, it serves as an indispensable text for students of all ages to advance their appreciation and greater understanding of our history and our rightful place in America. The American Indians' perspective has been absent from colonial histories for too long, leaving continued misunderstandings of our struggles for sovereignty and human rights."

—PETERSON ZAH, former president of the Navajo Nation

"This may well be the most important US history book you will read in your lifetime. If you are expecting yet another 'new' and improved historical narrative or synthesis of Indians in North America, think again. Instead Roxanne Dunbar-Ortiz radically reframes US history, destroying all foundation myths to reveal a brutal settler-colonial structure and ideology designed to cover its bloody tracks. Here, rendered in honest, often poetic words, is the story of those tracks and the people who survived—bloodied but unbowed. Spoiler alert: the colonial era is still here, and so are the Indians."

—ROBIN D.G. KELLEY, author of *Freedom Dreams*

"Roxanne Dunbar-Ortiz writes a masterful story that relates what the Indigenous peoples of the United States have always maintained: against the settler US nation, Indigenous peoples have persevered against actions and policies intended to exterminate them, whether physically, mentally, or intellectually. Indigenous nations and their people continue to bear witness to their experiences under the US and demand justice as well as the realization of sovereignty on their own terms."

—JENNIFER NEZ DENETDALE, associate professor of American studies, University of New Mexico, and author of *Reclaiming Diné History*

"In her in-depth and intelligent analysis of US history from the Indigenous perspective, Roxanne Dunbar-Ortiz challenges readers to rethink the myth that Indian lands were free lands and that genocide was a justifiable means to a glorious end. A must-read for anyone interested in the truth behind this nation's founding and its often contentious relationship with indigenous peoples."

—VERONICA E. VELARDE TILLER, PhD, Jicarilla Apache author, historian, and publisher of *Tiller's Guide to Indian Country*

"Roxanne Dunbar-Ortiz's *An Indigenous Peoples' History of the United States* should be essential reading in schools and colleges. It pulls up the paving stones and lays bare the deep history of the United States, from the corn to the reservations. If the United States is a 'crime scene,' as she calls it, then Dunbar-Ortiz is its forensic scientist. A sobering look at a grave history."

—VIJAY PRASHAD, author of *The Poorer Nations*

AN INDIGENOUS PEOPLES' HISTORY OF THE UNITED STATES

ALSO BY ROXANNE DUNBAR-ORTIZ

The Great Sioux Nation:
An Oral History of the Sioux Nation and Its Struggle for Sovereignty

Roots of Resistance:
A History of Land Tenure in New Mexico

Blood on the Border:
A Memoir of the Contra War

Outlaw Woman:
A Memoir of the War Years, 1960–1975

Red Dirt: Growing Up Okie

BOOKS IN THE REVISIONING AMERICAN HISTORY SERIES

A Queer History of the United States
by Michael Bronski

A Disability History of the United States
by Kim E. Nielsen

AN INDIGENOUS PEOPLES' HISTORY OF THE UNITED STATES

ROXANNE DUNBAR-ORTIZ

ReVisioning American History

BEACON PRESS BOSTON

BEACON PRESS
Boston, Massachusetts
www.beacon.org

Beacon Press books
are published under the auspices of
the Unitarian Universalist Association of Congregations.

© 2014 by Roxanne Dunbar-Ortiz
All rights reserved
Printed in the United States of America

17 16 15 8 7 6

Beacon Press's ReVisioning American History series consists of
accessibly written books by notable scholars that reconstruct
and reinterpret US history from diverse perspectives.

This book is printed on acid-free paper that meets the uncoated paper
ANSI/NISO specifications for permanence as revised in 1992.

Text design and composition by Wilsted & Taylor Publishing Services

Excerpts from Simon J. Ortiz's *from Sand Creek: Rising in This Heart Which Is Our America* (Tucson: University of Arizona Press, 2000)
are reprinted here with permission.

LIBRARY OF CONGRESS CATALOGING-IN-PUBLICATION DATA
Dunbar-Ortiz, Roxanne.
An indigenous peoples' history of the United States / Roxanne Dunbar-Ortiz.
pages cm — (ReVisioning American history)
Includes bibliographical references and index.
ISBN 978-0-8070-0040-3 (hardcover : alk. paper) —
ISBN 978-0-8070-0041-0 (ebook) 1. Indians of North America—Historiography.
2. Indians of North America—Colonization. 3. Indians, Treatment of—
United States—History. 4. United States—Colonization. 5. United States—
Race relations. 6. United States—Politics and government. I. Title.
E76.8.D86 2014
970.004'97— dc23 2013050262

TO

Howard Adams (1921–2001)

Vine Deloria Jr. (1933–2005)

Jack Forbes (1934–2011)

CONTENTS

Author's Note
xi

INTRODUCTION
This Land
1

ONE
Follow the Corn
15

TWO
Culture of Conquest
32

THREE
Cult of the Covenant
45

FOUR
Bloody Footprints
56

FIVE
The Birth of a Nation
78

SIX
The Last of the Mohicans and
Andrew Jackson's White Republic
95

SEVEN
Sea to Shining Sea
117

EIGHT
"Indian Country"
133

NINE
US Triumphalism and Peacetime Colonialism
162

TEN
Ghost Dance Prophecy: A Nation Is Coming
178

ELEVEN
The Doctrine of Discovery
197

CONCLUSION
The Future of the United States
218

Acknowledgments 237

Suggested Reading 240

Notes 245

Works Cited 265

Index 280

ELEVEN

THE DOCTRINE OF DISCOVERY

The whip covers the fault.

—D'Arcy McNickle, *The Surrounded*

Native liberty, natural reason, and survivance
are concepts that originate in narratives,
not in the mandates of monarchies, papacies,
severe traditions, or federal policies.

—Gerald Vizenor, *The White Earth Nation*

In 1982, the government of Spain and the Holy See (the Vatican, which is a nonvoting state member of the United Nations) proposed to the UN General Assembly that the year 1992 be celebrated in the United Nations as an "encounter" between Europe and the peoples of the Americas, with Europeans bearing the gifts of civilization and Christianity to the Indigenous peoples. To the shock of the North Atlantic states that supported Spain's resolution (including the United States and Canada), the entire African delegation walked out of the meeting and returned with an impassioned statement condemning a proposal to celebrate colonialism in the United Nations, which was established for the purpose of ending colonialism.[1]

The "Doctrine of Discovery" had reared its head in the wrong place. The resolution was dead, but it was not the end of efforts by Spain, the Vatican, and others in the West to make the Quincentennial a cause for celebration.

Only five years before the debacle in the UN General Assembly, the Indigenous Peoples of the Americas conference at the UN's Geneva headquarters had proposed that 1992 be made the UN "year

of mourning" for the onset of colonialism, African slavery, and genocide against the Indigenous peoples of the Americas, and that October 12 be designated as the UN International Day of the World's Indigenous Peoples. As the time drew near to the Quincentennial, Spain took the lead in fighting the Indigenous proposals. Spain and the Vatican also spent years and huge sums of money preparing for their own celebration of Columbus, enlisting the help of all of the countries of Latin America except Cuba, which refused (and paid for this in withdrawn Spanish financial investments). In the United States, the George H. W. Bush administration cooperated with the project and produced its own series of events. In the end, compromise won at the United Nations: Indigenous peoples garnered a Decade for the World's Indigenous Peoples, which officially began in 1994 but was inaugurated at UN headquarters in New York in December 1992. August 9, not October 12, was designated as the annual UN International Day for the World's Indigenous Peoples, and the Nobel Peace Prize went to Guatemalan Mayan leader Rigoberta Menchú, announced in Oslo on October 12, 1992, a decision that infuriated the Spanish government and the Vatican. The organized celebrations of Columbus flopped, thanks to multiple, highly visible protests by Indigenous peoples and their allies. Particularly, support grew for the work of Indigenous peoples at the United Nations to develop new international law standards.

According to the centuries-old Doctrine of Discovery, European nations acquired title to the lands they "discovered," and Indigenous inhabitants lost their natural right to that land after Europeans had arrived and claimed it.[2] Under this legal cover for theft, Euro-American wars of conquest and settler colonialism devastated Indigenous nations and communities, ripping their territories away from them and transforming the land into private property, real estate. Most of that land ended up in the hands of land speculators and agribusiness operators, many of which, up to the mid-nineteenth century, were plantations worked by another form of private property, enslaved Africans. Arcane as it may seem, the doctrine remains the basis for federal laws still in effect that control Indigenous peoples' lives and destinies, even their histories by distorting them.

THE WHIP OF COLONIALISM

From the mid-fifteenth century to the mid-twentieth century, most of the non-European world was colonized under the Doctrine of Discovery, one of the first principles of international law Christian European monarchies promulgated to legitimize investigating, mapping, and claiming lands belonging to peoples outside Europe. It originated in a papal bull issued in 1455 that permitted the Portuguese monarchy to seize West Africa. Following Columbus's infamous exploratory voyage in 1492, sponsored by the king and queen of the infant Spanish state, another papal bull extended similar permission to Spain. Disputes between the Portuguese and Spanish monarchies led to the papal-initiated Treaty of Tordesillas (1494), which, besides dividing the globe equally between the two Iberian empires, clarified that only non-Christian lands fell under the discovery doctrine.[3] This doctrine on which all European states relied thus originated with the arbitrary and unilateral establishment of the Iberian monarchies' exclusive rights under Christian canon law to colonize foreign peoples, and this right was later seized by other European monarchical colonizing projects. The French Republic used this legalistic instrument for its nineteenth- and twentieth-century settler colonialist projects, as did the newly independent United States when it continued the colonization of North America begun by the British.

In 1792, not long after the US founding, Secretary of State Thomas Jefferson claimed that the Doctrine of Discovery developed by European states was international law applicable to the new US government as well. In 1823 the US Supreme Court issued its decision in *Johnson v. McIntosh*. Writing for the majority, Chief Justice John Marshall held that the Doctrine of Discovery had been an established principle of European law and of English law in effect in Britain's North American colonies and was also the law of the United States. The Court defined the exclusive property rights that a European country acquired by dint of discovery: "Discovery gave title to the government, by whose subjects, or by whose authority, it was made, against all other European governments, which title

might be consummated by possession." Therefore, European and Euro-American "discoverers" had gained real-property rights in the lands of Indigenous peoples by merely planting a flag. Indigenous rights were, in the Court's words, "in no instance, entirely disregarded; but were necessarily, to a considerable extent, impaired." The Court further held that Indigenous "rights to complete sovereignty, as independent nations, were necessarily diminished." Indigenous people could continue to live on the land, but title resided with the discovering power, the United States. A later decision concluded that Native nations were "domestic, dependent nations."

The Doctrine of Discovery is so taken for granted that it is rarely mentioned in historical or legal texts published in the Americas. The UN Permanent Forum on Indigenous Peoples, which meets annually for two weeks, devoted its entire 2012 session to the doctrine.[4] Three decades earlier, as Indigenous peoples of the Americas began asserting their presence in the UN human rights system, they had proposed such a conference and study. The World Council of Churches, the Unitarian Universalist Church, the Episcopal Church, and other Protestant religious institutions, responding to demands from Indigenous peoples, have made statements disassociating themselves from the Doctrine of Discovery. The New York Society of Friends (Quakers), in denying the legitimacy of the doctrine, asserted in 2012 that it clearly "still has the force of law today" and is not simply a medieval relic. The Quakers pointed out that the United States rationalizes its claims to sovereignty over Native nations, for instance in the 2005 US Supreme Court case, *City of Sherrill v. Oneida Nation of Indians*. The statement asserts: "We cannot accept that the Doctrine of Discovery was ever a true authority for the forced takings of lands and the enslavement or extermination of peoples."[5] The Unitarian Universalist Association (UUA) resolution regarding this is particularly powerful and an excellent model. The UUA "repudiate(s) the Doctrine of Discovery as a relic of colonialism, feudalism, and religious, cultural, and racial biases having no place in the modern day treatment of indigenous peoples." The Unitarians resolved to "expose the historical reality and impact of the Doctrine of Discovery and eliminate its presence in the contemporary policies, programs, theologies, and structures of Unitarian Universalism; and . . . in-

vite indigenous partners to a process of Honor and Healing (often called Truth and Reconciliation)." They additionally encouraged "other religious bodies to reject the use of the Doctrine of Discovery to dominate indigenous peoples" and resolved to collaborate with groups "to propose a specific Congressional Resolution to repudiate this doctrine . . . and call upon the United States to fully implement the standards of the U.N. Declaration on the Rights of Indigenous Peoples in the U.S. law and policy without qualifications."[6]

TANGLED CONTRADICTIONS

US officials get tangled in the contradictions inherent in the attempt to legitimize empire building through the Doctrine of Discovery and the origin story of making a clear break from the British empire. The rhetoric is often baffling, particularly when it references US American cultural memory of the wars against Native nations, as it did following the declaration of the "War on Terror" after the terrorist attacks of September 11, 2001.

In early 2011, a Yemeni citizen, Ali Hamza al Bahlul, was serving a life sentence at Guantánamo as an "enemy combatant," a military tribunal having convicted him of crimes associated with his service to al-Qaeda as Osama bin Laden's media secretary. The Center for Constitutional Rights (CCR) issued a statement prior to the hearing in the appeal of Bahlul's conviction. In arguing that Bahlul's conviction be upheld, a Pentagon lawyer, navy captain Edward S. White, relied on a precedent from an 1818 tribunal. In his thirty-seven-page military commissions brief, Captain White wrote: "Not only was the Seminole belligerency unlawful, but, much like modern-day al Qaeda, the very way in which the Seminoles waged war against U.S. targets itself violate the customs and usages of war." The CCR objected to this passage in the government's brief. "The court should . . . reject the government's notable reliance on the 'Seminole Wars' of the 1800s, a genocide that led to the Trail of Tears," the CCR declared. "The government's characterization of Native American resistance to the United States as 'much like modern-day al Qaeda' is not only factually wrong but overtly racist, and cannot present

any legitimate legal basis to uphold Mr. Bahlul's conviction."[7] In response, the Pentagon's general counsel issued a letter stating that the US government stood by its precedent.

"WE WISH TO CONTINUE TO EXIST"

The question of self-determination of peoples is a recent historical phenomenon integral both to the formation of modern European nation-states and to the gradual formation of an imperialist world system eventually led by the United States. National integration and state formation occurred first in western Europe as its states established colonies and colonial regimes in Africa, Asia, the Pacific, the Americas, and the Caribbean, and as the United States established itself as an independent state. These conquests afforded European states and the United States access to vast resources and labor that in turn allowed them to industrialize and to create efficient bureaucratic structures and political republicanism. At the end of this process, with decolonization of European holdings in the twentieth century, self-determination became a major global issue eventually incorporating all human beings as citizens of nation-states. The creation of nation-states and the redrawing of national boundaries that this often entailed inevitably raised the questions of which national, ethnic, religious, and linguistic communities were included and whether their consent or participation would be required. There are peoples and nations without their own states, locked under a state authority that may or may not be willing to respond to their demands for autonomy within the existing state. If the state is not willing, the peoples or nations may choose to insist on independence. That is the work of self-determination.

In the United States, Indigenous nations that seek political autonomy or even independence engage in nation building—that is, developing Indigenous governance and an economic base. For decades, Native activists and organizers in North America have worked tirelessly to establish the validity of treaties and to foster and protect the self-determination and sovereignty of Indigenous nations. The nations seek control of their social and political institutions without

compromising what they consider unique and essential cultural values. The central concern for Indigenous peoples in the United States is prevailing upon the federal government to honor hundreds of treaties and other agreements concluded between the United States and Indigenous nations as between two sovereign states. Demands to have treaties and agreements upheld have never abated, and they have accelerated since the end of the termination era. However, the Indigenous concept of nation and sovereignty is quite distinct from the Western model of the state as the final arbiter of decision making, based on police enforcement. Rather, as Indigenous lawyer and activist Sharon Venne has put it, "We know the laws given to us by the Creator. It is an obligation. It is a duty. It is the future of our [children's] children. We cannot like the non-indigenous people who make rules and regulations and change them when they don't like the rule or regulation. We were given the laws by the Creator. We have to live the laws. This is sovereignty of Indigenous Peoples."[8]

Following the 1973 standoff at Wounded Knee, the American Indian Movement brought together more than five thousand Indigenous representatives, including ones from Latin America and the Pacific, in a ten-day gathering that founded the International Indian Treaty Council (IITC), which then applied for and received UN nongovernmental consultative status in 1975. The IITC proceeded to organize the first conference to be held at the United Nations on Indigenous Peoples of the Americas in 1977. At this conference, Northern Cheyenne tribal judge Marie Sanchez opened the proceedings:

> Members of this conference, delegates, and my brothers and sisters who are present here today.
>
> We are the target for the total final extermination of us as people.
>
> The question I would like to bring forth to this conference, to the delegates from other countries here present, is why have you not recognized us as sovereign people before? Why did we have to travel this distance to come to you? Had you not thought that the United States Government in its deliberate and systematic attempt to suppress us, had you not thought

> that that was the reason they did not want to recognize us as sovereign people? The only positive thing that I feel should come out of this conference, if you are going to include us as part of the international family is for you to recognize us, for you to give us this recognition. Only with that can we continue to live as completely sovereign people.
>
> And you also, because you are part of the family of this world, you should also be very concerned, because the common enemy is your enemy too, and that enemy dictates policy to your governments also. I warn you not to be so dependent on the country that we are under, on the government that we are under. We have demonstrated to you how many hundreds of years we have survived.
>
> We wish to continue to exist.[9]

This international work at the United Nations grew slowly at first, but by the mid-1980s it was attracting grassroots Indigenous representatives from around the world and constructing important initiatives.

The global Indigenous cause reached a major milestone in 2007 when the UN General Assembly passed the Declaration on the Rights of Indigenous Peoples. Only four members of the assembly voted in opposition, all of them Anglo settler-states—the United States, Canada, New Zealand, and Australia. All four, with some embarrassment, later changed their votes to approval.[10] Leo Killsback reflects the perceptions of most Native people that the declaration might "bring western cultures out of their old world of savagery and closer to humanity," noting the example of the end of World War II:

> After the fall of Nazi Germany, its leaders were publicly ostracized, tried, convicted, and executed for war crimes at the Nuremburg trials. This led to the Genocide Convention and the Universal Declaration of Human Rights. Nazi society members affirmed that the Holocaust occurred and some were forced to visit concentration camps only feet from their place of residence. Under truth and reconciliation German society

> began to rebuild itself, and with the end of their savage world, they and numerous other countries adopted Holocaust-denial laws. This is exactly how a society moved from one reality to another.[11]

For Indigenous peoples in North America an important action within the UN human rights framework was the 1987 mandate given to a UN special rapporteur, Miguel Alfonso Martínez, to investigate the status of treaties and agreements between Indigenous nations and the original colonial powers and the national governments that now claim authority over Indigenous nations by virtue of those treaties. The UN Study on Treaties, completed in 1999, is a useful tool for Indigenous peoples in the United States in their continuing struggles for land restoration and sovereignty. The investigation concluded that Indigenous treaty rights in the United States have contemporary effective status. The special rapporteur based this finding largely on the US Constitution, which in Article VI provides that "all treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." Article I, Section 8, of the Constitution explicitly includes relations with Indigenous nations as among the powers of Congress: "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."[12]

LAND CLAIMS

With a large part of Indigenous nations' territories and resources in what is now the United States taken through aggressive war, outright theft, and legislative appropriations, Native peoples have vast claims to reparations and restitution. Indigenous nations negotiated numerous treaties with the United States that included land transfers and monetary compensation, but the remaining Indigenous territories have steadily shrunk due to direct federal appropriation by various means as well as through government failure to meet its obligation to

protect Indigenous landholdings as required under treaties. The US government has acknowledged some of these claims and has offered monetary compensation. However, since the upsurge of Indian rights movements in the 1960s, Indigenous nations have demanded restoration of treaty-guaranteed land rather than monetary compensation.

Native Americans, including those who are legal scholars, ordinarily do not use the term "reparations" in reference to their land claims and treaty rights. Rather, they demand restoration, restitution, or repatriation of lands acquired by the United States outside valid treaties. These demands for return of lands and water and other resource rights illegally taken certainly could be termed "reparations," but they have no parallel in the monetary reparations owed, for example, to Japanese Americans for forced incarceration or to descendants of enslaved African Americans. No monetary amount can compensate for lands illegally seized, particularly those sacred lands necessary for Indigenous peoples to regain social coherence. One form of Native claim does seek monetary compensation and might provide a template for other classes. Of the hundreds of lawsuits for federal trust mismanagement that Indigenous groups have filed, most since the 1960s, the largest and best known is the *Cobell v. Salazar* class-action suit, initially filed in 1996 and settled in 2011. The individual Indigenous litigants, from many Native nations, claimed that the US Department of the Interior, as trustee of Indigenous assets, had lost, squandered, stolen, and otherwise wasted hundreds of millions of dollars dating back to the forced land allotment beginning in the late 1880s. By the end of 2009, it was clear that the case was headed for a decision favoring the Indigenous groups when the lead plaintiffs, representing nearly a half-million Indigenous individuals, accepted a $3.4-billion settlement proposed by the Obama administration. The amount of the settlement was greater than the half-billion dollars that the court would likely have awarded. However, what was sacrificed in the settlement was a detailed accounting of the federal government's misfeasance. As one reporter lamented: "The result will see some involved with the case, especially lawyers, become quite rich, while many Indians—the majority, in all likelihood—will receive about a third of what it takes to feed a family of four for just one year."[13]

Another important form of reparations is the repatriation of remains of dead ancestors and burial items. After considerable struggle on the part of Indigenous religious practitioners, Congress enacted the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), which requires that museums return human remains and burial items to the appropriate Indigenous communities. It is fitting that Congress used the term "repatriation" in the act. Before NAGPRA, the federal government had used "repatriation" to describe the return of remains of prisoners of war to foreign nations. Native American nations are sovereign as well, and Congress correctly characterized the returns as repatriations.[14]

Although compensation for federal trust mismanagement and repatriation of ancestral remains represent important victories, land claims and treaty rights are most central to Indigenous peoples' fight for reparations in the United States. The case of the great Sioux Nation exemplifies the persistence among Indigenous nations and communities to protect their sovereignty and cultures. The Sioux have never accepted the validity of the US confiscation of Paha Sapa, the Black Hills. Mount Rushmore is controversial among Native Americans because it is located in the Black Hills. Members of the American Indian Movement led occupations of the monument beginning in 1971. Return of the Black Hills was the major Sioux demand in the 1973 occupation of Wounded Knee.[15] Due to a decade of intense protests and occupations by the Sioux, on July 23, 1980, in *United States v. Sioux Nation of Indians*, the US Supreme Court ruled that the Black Hills had been taken illegally and that remuneration equal to the initial offering price plus interest—nearly $106 million—be paid. The Sioux refused the award and continued to demand return of the Black Hills. The money remained in an interest-bearing account, which by 2010, amounted to more than $757 million. The Sioux believe that accepting the money would validate the US theft of their most sacred land. The Sioux Nation's determination to repatriate the Black Hills attracted renewed media attention in 2011. A segment of the PBS *NewsHour* titled "For Great Sioux Nation, Black Hills Can't Be Bought for $1.3 Billion" aired on August 24. The reporter described a Sioux reservation as one of the most difficult places in which to live in the United States:

> Few people in the Western Hemisphere have shorter life expectancies. Males, on average, live to just 48 years old, females to 52. Almost half of all people above the age of 40 have diabetes.
>
> And the economic realities are even worse. Unemployment rates are consistently above 80 percent. In Shannon County, inside the Pine Ridge Reservation, half the children live in poverty, and the average income is $8,000 a year.
>
> But there are funds available, a federal pot now worth more than a billion dollars. That sits here in the U.S. Treasury Department waiting to be collected by nine Sioux tribes. The money stems from a 1980 Supreme Court ruling that set aside $105 million to compensate the Sioux for the taking of the Black Hills in 1877, an isolated mountain range rich in minerals that stretched from South Dakota to Wyoming. The only problem: The Sioux never wanted the money because the land was never for sale.[16]

That one of the most impoverished communities in the Americas would refuse a billion dollars demonstrates the relevance and significance of the land to the Sioux, not as an economic resource but as a relationship between people and place, a profound feature of the resilience of the Indigenous peoples of the Americas.

ECONOMIC SELF-DETERMINATION

The relationship of economic development and Indigenous peoples in the United States is not a twentieth-century phenomenon. The collusion of business and government in the theft and exploitation of Indigenous lands and resources is the core element of colonization and forms the basis of US wealth and power. By the end of the nineteenth century, Indigenous communities had little control over their resources or their economic situations, receiving only royalties for mining and leasing, funds held in trust in Washington. During the Johnson administration's War on Poverty, most reservation economic development was spurred by funding and grants from the

Economic Development Administration, the Office of Economic Opportunity, and other government agencies. The Bureau of Indian Affairs began a program to woo industrial plants to reservations, promising cheap labor and infrastructure investment. The largest such experiment was that of the giant electronics company Fairchild's assembly plant in the Navajo Nation.

Established at the town of Shiprock (in the northeastern part of the reservation, in New Mexico) in 1969, the plant became the single largest industrial employer in New Mexico by 1975. Twelve hundred Navajos made up the initial workforce. By 1974, the numbers had lessened to a thousand, but still Navajos were 95 percent of the workforce. Then, during 1974–75, the Navajo workforce shrunk to six hundred. Fairchild's Mountain View, California, headquarters claimed that Navajos were quitting, something very common in the electronics assembly industry. Non-Indians were being hired to replace Navajos. What actually had been happening were layoffs, not resignations. The federal government subsidized the wages for the six-month training period on the job, for which little training is required, and Fairchild was laying off those workers whom they would have to pay and hiring new trainees at no cost. Local Navajo activists and former Fairchild employees, along with help from American Indian Movement leaders, organized a protest at the plant, which led to the workers occupying it. Fairchild decommissioned the plant and moved it overseas. Documents recovered by protesters revealed that Fairchild was seeking a pretext to break its lease. The Navajo Nation had built the plant to Fairchild's specifications at a cost of three and a half million dollars.[17]

The Indian Self-Determination Act of 1975 validated Indigenous control over their own social and economic development with continuation of federal financial obligations under treaties and agreements. Acting upon the new mandate, a number of Indigenous nations with mineral resources formed the Council of Energy Resource Tribes (CERT). Patterned after the federation of oil-producing states, OPEC (Organization of the Petroleum Exporting Countries), CERT sought to renegotiate mineral leases that the BIA had practically given away to energy companies. Native lands west of the Mississippi held considerable resources: 30 percent of the

low-sulfur coal in the United States, 5 percent of the oil, 10 percent of the natural gas, and 80 percent of the uranium. CERT was able to establish a center of information and action in Denver to serve its members with technical and legal assistance. The Jicarilla Apache Nation slapped a severance tax on the oil and gas taken from their lands. A corporate legal challenge to this wound up in the Supreme Court, which found that Native nations had the right to tax corporations that operated in their boundaries.

Navajo chairman Peter MacDonald was the force behind the founding of CERT and was its first director. But he quickly found his scheme of mining as the basis for economic development challenged by young Navajos who perceived the downside of ecological destruction. Strip-mining of coal and uranium in the Navajo Nation was bad enough, but then a coal-gasification plant was established to feed into the Navajo electricity-generating plant that sent power to Phoenix and Los Angeles but provided Navajos with little or none. Navajo activist John Redhouse, who became director of the National Indian Youth Council, led decades of struggle against unrestricted mining, with new generations continuing the fight.[18]

Like many de-industrializing US cities and states in the 1980s, some Native nations turned to gaming for revenue. In 1986, they formed the National Indian Gaming Association for the purpose of lobbying state and federal governments and to represent the interests of its members. But in 1988 Congress passed the Indian Gaming Regulatory Act, which gave the states some control over gaming, a dangerous surrender of sovereignty for those Native nations operating casinos. Indigenous gaming operations now constitute a $26 billion industry annually that employs three hundred thousand people, with about half the 564 federally recognized nations operating casinos of various sizes. Profits have been used in myriad ways, some for per capita payments, others earmarked for educational and linguistic development, housing, hospitals, and even investing in larger projects such as the Smithsonian Institution's National Museum of the American Indian. A good portion of profits go to lobbying politicians of state and federal governments. The Indian gaming lobby in California, for instance, is second only to the prison guards union in the state.[19]

THE NARRATIVE OF DYSFUNCTION

The mainstream media and books regularly expose and denounce the poverty and social dysfunction found in Indigenous communities. Rates of alcoholism and suicide are far higher than national averages, and higher even than in other communities living in poverty. In a book of case studies of poverty and neglected sites of deterioration in the United States, journalist Chris Hedges offered an impassioned account of the Pine Ridge Reservation.[20]

As well-meaning and accurate as such portrayals are, however, they miss the specific circumstances that reproduce Indigenous poverty and social scarring—namely, the colonial condition. As Vine Deloria Jr. and other Native American activists and scholars have emphasized, there is a direct link between the suppression of Indigenous sovereignty and the powerlessness manifest in depressed social conditions. Deloria Jr. explained that for the Sioux, everyone has responsibility and rituals to perform that involve a particular geography. In their case, this means sites in the Black Hills: "Some of the holy men up there will say that a lot of the social problems with the Sioux are the result of losing the Black Hills, so you couldn't perform your duties and become a contributor to the ongoing creation. And consequently, people began to fall away and they started to suffer and they started to fight among themselves."[21] In continuing to disregard treaty rights and deny restitution of sacred lands such as the Black Hills, the federal government prevents Indigenous communities from performing their most elemental responsibilities as inscribed in their cultural and religious teachings. In other words, sovereignty equates to survival—nationhood instead of genocide. Ethnographer Nancy Oestreich Lurie provocatively described Indian drinking as "the world's oldest on-going protest demonstration."[22] The effects of continued colonization form similar patterns among Indigenous communities throughout the Americas, as well as among the Maori of New Zealand and the Australian Aborigines.[23]

The experience of generations of Native Americans in on- and off-reservation boarding schools, run by the federal government or Christian missions, contributed significantly to the family and so-

cial dysfunction still found in Native communities. Generations of child abuse, including sexual abuse—from the founding of the first schools by missionaries in the 1830s and the federal government in 1875 until most were closed and the remaining ones reformed in the 1970s—traumatized survivors and their progeny.[24] In 2002, a coalition of Indigenous groups started the Boarding School Healing Project, which documented through research and oral history the extensive abuses that go beyond individual casualties to disruption of Indigenous life at every level. Sun Elk was the first child from the very traditional Taos Pueblo to attend the Carlisle Indian Industrial School, spending seven years there beginning in 1883. After a harsh reentry into Taos society, he told his story:

> They told us that Indian ways were bad. They said we must get civilized. I remember that word too. It means "be like the white man." I am willing to be like the white man, but I did not believe Indians' ways were wrong. But they kept teaching us for seven years. And the books told how bad the Indians had been to the white men—burning their towns and killing their women and children. But I had seen white men do that to Indians. We all wore white man's clothes and ate white man's food and went to white man's churches and spoke white man's talk. And so after a while we also began to say Indians were bad. We laughed at our own people and their blankets and cooking pots and sacred societies and dances.[25]

Corporal punishment was unknown in Indigenous families but was routine in the boarding schools. Often punishment was inflicted for being "too Indian"—the darker the child, the more often and severe the beatings. The children were made to feel that it was criminal to be Indian.[26] A woman whose mother experienced boarding school related the results:

> Probably my mother and . . . her brothers and sisters were the first in our family to go to boarding school. . . . And the stories she told . . . were horrendous. There were beatings. There

> [was] a very young classmate—I don't know how old they were, probably preschool or grade school—who lost a hand in having to clean this machine that baked bread or cut dough or something, and having to kneel for hours on cold basement floors as punishment. . . . My mother lived with a rage all her life, and I think the fact that they were taken away so young was part of this rage and how it—the fallout—was on us as a family.[27]

Ponca historian Roger Buffalohead verifies that testimony:

> The idea of corporal punishment, so foreign to traditional Indian cultures, became a way of life for those students returning from their educational experience.
>
> Yet you find by the thirties and forties in most Native communities, where large numbers of young people had, in the previous years, attended boarding schools, an increasing number of parents who utilized corporal punishment in the raising of their children, so that although you can't prove a direct connection, I think you can certainly see that boarding school experiences, where corporal punishment was the name of the game, had [their] impact on the next generations of native people.[28]

Sexual abuse of both girls and boys was also rampant. One woman remembers: "We had many different teachers during those years; some got the girls pregnant and had to leave. . . . [One teacher] would put his arms around and fondle this girl, sometimes taking her on his lap. . . . When I got there, Mr. M put his arm around me and rubbed my arm all the way down. He rubbed his face against mine." At one mission school, a priest was known for his sexual advances. "Anyway, I ended up beside him [the priest] . . . and all of a sudden he started to feel my legs. . . . I was getting really uncomfortable and he started trying to put his hands in my pants."[29] Nuns also participated in sexual abuse: "A nun was sponge bathing me and proceeded to go a little too far with her sponge bathing. So I pushed her hand away. She held my legs apart while she strapped the insides of my thighs. I never stopped her again."[30]

Much documentation and testimony attest to the never-ending resistance by children in boarding schools. Running away was the most common way to resist, but there were also acts of nonparticipation and sabotage, secretly speaking their languages and practicing ceremonies. This surely accounts for their survival, but the damage is nearly incomprehensible. Mohawk historian Taiaiake Alfred asks, "What is the legacy of colonialism? Dispossession, disempowerment, and disease inflicted by the white man, to be sure. . . . Yet the enemy is in plain view: residential schools, racism, expropriation, extinguishment, warship, welfare."[31]

Indigenous women, in particular, have continued to bear the brunt of sexual violence, both within families and by settler predators. Incidence of rape on reservations has long been astronomical. The colonialist restrictions on Indigenous policing authority on reservations—yet another legacy of the Doctrine of Discovery and the impairment of Indigenous sovereignty—opened the door to perpetrators of sexual violence who knew there would be no consequences for their actions.[32] Under the US colonial system, jurisdiction for crimes committed on Native lands falls to federal and state authorities because Native justice can be applied only to reservation residents, and then only for misdemeanors. One in three Native American women has been raped or experienced attempted rape, and the rate of sexual assault on Native American women is more than twice the national average. For five years after publication of a scathing 2007 report by Amnesty International, Native American and women's organizations, including the National Organization for Women (NOW), lobbied Congress to add a new section to the 1994 Violence Against Women Act (VAWA) addressing the special situation of Native American women living on reservations.[33] The added provision would allow Native nations' courts jurisdiction to arrest and prosecute non-Native men who enter reservations and commit rape. At the end of 2012, the Republican-dominated US Congress denied reauthorization of the VAWA, because it included the provision. In March 2013, however, that opposition was overcome, and President Barack Obama signed the amended act back into law—a small step forward for Native sovereignty.

INDIGENOUS GOVERNANCE

For generations, Native nations, occasionally with the help of federal or state government, treated the symptoms of colonialism. But with the powerful Indigenous self-determination movements of the second half of the twentieth century, those nations participated in drafting and instituting new international law that supports their aspirations, and they began working on shoring up their sovereignty through governance. Through this work, US Indigenous peoples have reconceptualized their current forms of government based on new constitutions that reflect their specific cultures. Navajo thinking on a future constitution expresses that desire. Like some other Native nations, the Navajo, the most populous and the one holding the largest land base in the United States, has never had a constitution. But others do have constitutions similar to that of the United States. Nearly sixty Native nations adopted constitutions before 1934. Following the Indian Reorganization Act of that year, another 130 nations wrote constitutions according to federal guidelines but without significant participation of their citizenry.[34] The movement to create, revise, or rewrite constitutions has seen notable success in two instances during the first decade of the twenty-first century.

From 2004 to 2006 the Osage Nation, located in northeastern Oklahoma, engaged in a contentious process of reform that produced a new constitution. The preamble reflects the extraordinary context and content of the new law:

> We the Wah-zha-zhe, known as the Osage People, having formed as Clans in the far distant past, have been a People and as a People have walked this earth and enjoyed the blessing of Wah-kon-tah for more centuries than we truly know.
>
> Having resolved to live in harmony, we now come together so that we may once more unite as a Nation and as a People, calling upon the fundamental values that we hold sacred: Justice, Fairness, Compassion, Respect for and Protection of Child, Elder, All Fellow Beings, and Self.
>
> Paying homage to generations of Osage leaders of the past

> and present, we give thanks for their wisdom and courage. Acknowledging our ancient tribal order as the foundation of our present government, first reformed in the 1881 Constitution of the Osage Nation, we continue our legacy by again reorganizing our government.
>
> This Constitution, created by the Osage People, hereby grants to every Osage citizen a vote that is equal to all others and form a government that is accountable to the citizens of the Osage Nation.
>
> We, the Osage People, based on centuries of being a People, now strengthen our government in order to preserve and perpetuate a full and abundant Osage way of life that benefits all Osages, living and as yet unborn.[35]

Similarly, in 2009, the White Earth Nation of the Anishinaabeg (Ojibwe people) adopted a new constitution. White Earth is located in central Minnesota and is one of a number of Anishinaabe reservations in Minnesota, with others in Wisconsin, South Dakota, and Canada. The preamble to the White Earth constitution is revealing:

> The Anishinaabeg of the White Earth Nation are the ancestors of a great tradition of continental liberty, a native constitution of families, totemic associations. The Anishinaabeg create stories of natural reason, of courage, loyalty, humor, spiritual inspiration, survivance, reciprocal altruism, and native cultural sovereignty.
>
> We the Anishinaabeg of the White Earth Nation in order to secure an inherent and essential sovereignty, to promote traditions of liberty, justice, and peace, and reserve common resources, and to ensure the inalienable rights of native governance for our posterity, do constitute, ordain, and establish this Constitution of the White Earth Nation.[36]

Gerald Vizenor, a citizen of the White Earth Nation, best-selling author, and leading intellectual, participated in the writing of this constitution. Explaining the concept of "survivance," a term he coined, he stresses that it originates in Indigenous narratives: "The

conventions of survivance create a sense of Native presence over nihility and victory. Survivance is an active presence: it is not absence, deracination, or ethnographic oblivion, and survivance is the continuance of narratives, not a mere reaction, however pertinent. Survivance stories are renunciations of dominance, the unbearable sentiments of tragedy, and the legacy of victimry."[37]

The Doctrine of Discovery is dissolving in light of these profound acts of sovereignty. But neither arcane colonial laws nor the historical trauma of genocide simply disappear with time, certainly not when conditions of life and consciousness perpetuate them. The Indigenous self-determination and sovereignty movement is not only transforming the continent's Indigenous communities and nations but also, inevitably, the United States. The ways it is doing that are explored in the concluding chapter.